



January 27, 2006

HOUSE BILL No. 1332

DIGEST OF HB 1332 (Updated January 25, 2006 6:28 pm - DI 92)

Citations Affected: IC 6-3.1.

Synopsis: Alternative fuel production and use. Increases the maximum amount of credits that may be granted for biodiesel production, biodiesel blending, and ethanol production. Specifies the maximum amount of a credit that a taxpayer may claim based upon the amount of biodiesel, blended biodiesel, or ethanol produced by the taxpayer.

Effective: January 1, 2005 (retroactive); January 1, 2006 (retroactive).

Friend, Lutz J, Koch, Heim

January 10, 2006, read first time and referred to Committee on Utilities and Energy.
January 19, 2006, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to House Rule 127.
January 26, 2006, amended, reported — Do Pass.

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HB 1332—LS 7113/DI 51+



January 27, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

HOUSE BILL No. 1332

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-3.1-27-8, AS AMENDED BY P.L.191-2005,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2006 (RETROACTIVE)]: Sec. 8. (a) Subject to section
4 9.5 of this chapter, a taxpayer that has been certified by the corporation
5 as eligible for a credit under this section and produces biodiesel at a
6 facility located in Indiana is entitled to a credit against the taxpayer's
7 state tax liability equal to the product of:
8 (1) one dollar (\$1); multiplied by
9 (2) the number of gallons of biodiesel:
10 (A) produced at the Indiana facility during the taxable year;
11 and
12 (B) used to produce blended biodiesel.
13 (b) The total amount of credits allowed a taxpayer (or, if the person
14 producing the biodiesel is a pass through entity, the shareholders,
15 partners, or members of the pass through entity) under this section may
16 not exceed ~~three million dollars (\$3,000,000)~~ **the following amounts**
17 for all taxable years:

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(1) One million dollars (\$1,000,000) in the case of a taxpayer who produces less than thirty million (30,000,000) gallons of biodiesel in a taxable year.

(2) Two million dollars (\$2,000,000) in the case of a taxpayer who produces at least thirty million (30,000,000) but less than sixty million (60,000,000) gallons of biodiesel in a taxable year.

(3) Three million dollars (\$3,000,000) in the case of a taxpayer who produces at least sixty million (60,000,000) gallons of biodiesel in a taxable year.

(c) Notwithstanding subsection (b), the total amount of credits allowed a taxpayer (or if the person producing biodiesel is a pass through entity, the shareholders, partners, or members of the pass through entity) may be increased to an amount not to exceed a total of five million dollars (\$5,000,000) for all taxable years with the prior approval of the Indiana economic development corporation.

SECTION 2. IC 6-3.1-27-9, AS AMENDED BY P.L.191-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 9. (a) Subject to section 9.5 of this chapter, a taxpayer that has been certified by the corporation as eligible for a credit under this section and produces blended biodiesel at a facility located in Indiana is entitled to a credit against the taxpayer's state tax liability equal to the product of:

(1) two cents (\$0.02); multiplied by

(2) the number of gallons of blended biodiesel:

(A) produced at the Indiana facility; and

(B) blended with biodiesel produced at a facility located in Indiana.

(b) The total amount of credits allowed a taxpayer (or, if the person producing the blended biodiesel is a pass through entity, the shareholders, partners, or members of the pass through entity) under this section may not exceed ~~three million dollars (\$3,000,000)~~ the following amounts for all taxable years:

(1) One million dollars (\$1,000,000) in the case of a taxpayer who produces less than thirty million (30,000,000) gallons of blended biodiesel in a taxable year.

(2) Two million dollars (\$2,000,000) in the case of a taxpayer who produces at least thirty million (30,000,000) but less than sixty million (60,000,000) gallons of blended biodiesel in a taxable year.

(3) Three million dollars (\$3,000,000) in the case of a taxpayer who produces at least sixty million (60,000,000) gallons of blended biodiesel in a taxable year.

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SECTION 3. IC 6-3.1-27-9.5, AS ADDED BY P.L.191-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 9.5. The total amount of credits allowed under:

- (1) section 8 of this chapter;
- (2) section 9 of this chapter; and
- (3) IC 6-3.1-28;

may not exceed **twenty fifty** million dollars ~~(\$20,000,000)~~ **(\$50,000,000)** for all taxpayers and all taxable years **beginning after December 31, 2004**. The corporation shall determine the maximum allowable amount for each type of credit, which must be at least four million dollars (\$4,000,000) for each **type of credit**.

SECTION 4. IC 6-3.1-28-11, AS AMENDED BY P.L.191-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 11. ~~(a)~~ The total amount of credits allowed a taxpayer (or, if the person producing the ethanol is a pass through entity, the shareholders, partners, or members of the pass through entity) under this chapter may not exceed a total of ~~three million dollars (\$3,000,000)~~ **the following amounts** for all taxable years:

- (1) **Two million dollars (\$2,000,000) in the case of a taxpayer who produces at least forty million (40,000,000) but less than sixty million (60,000,000) gallons of ethanol in a taxable year.**
- (2) **Three million dollars (\$3,000,000) in the case of a taxpayer who produces at least sixty million (60,000,000) gallons of ethanol in a taxable year.**

(b) Notwithstanding subsection (a), the total amount of credits allowed a taxpayer (or if the person producing ethanol is a pass through entity, the shareholders, partners, or members of the pass through entity) may be increased to an amount not to exceed a total of five million dollars (\$5,000,000) for all taxable years with the prior approval of the Indiana economic development corporation.

SECTION 5. [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)] IC 6-3.1-27 and IC 6-3.1-28, both as amended by this act, apply to taxable years beginning after December 31, 2005.

SECTION 5. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities and Energy, to which was referred House Bill 1332, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-4-10.9-23.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 23.5. "Pollution control" means any technology or process that effectively reduces the emissions of certain pollutants per unit of work. The term includes any of the following, as determined by the office of the lieutenant governor:**

- (1) Precombustion processes.**
- (2) Combustion processes or technology.**
- (3) Postcombustion cleanup.**

SECTION 2. IC 4-4-10.9-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 24. "Pollution control facility" means a facility for the abatement, reduction, or prevention of pollution or for the removal or treatment of any substances in materials being processed that otherwise would cause pollution when used. This includes the following:**

- (1) Coal washing, coal cleaning, or coal preparation facilities designed to reduce the sulfur and ash levels of Indiana coal.**
 - (2) Coal-fired boiler facilities designed to reduce emissions while burning Indiana coal.**
 - (3) Pollution control equipment to allow for the environmentally sound use of Indiana coal.**
 - (4) Facilities that convert biomass, including agricultural waste, industrial waste, and municipal solid waste, into energy or synthetic gas for beneficial use.**
 - (5) Pollution control equipment for the conversion of waste tires into energy or synthetic gas for beneficial use.**
 - (6) Manufacturing facilities that use coal combustion products:**
 - (A) as defined by ASTM E-2201-02a; and**
 - (B) that are derived from burning Indiana coal;**
- as a raw material for manufacturing another product."**

Page 2, line 7, delete "and" and insert "**or**".

Page 2, line 10, delete "and" and insert "**or**".

Page 3, line 15, delete "for each taxable year the taxpayer owns" and

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insert **"with respect to a taxable year in which the taxpayer purchases"**.

Page 3, line 16, delete "." and insert **"in a retail transaction."**

Page 3, line 18, delete "owned by the taxpayer" and insert **"purchased by the taxpayer in a retail transaction"**.

Page 3, line 19, delete "the lesser of:" and insert **"one thousand dollars (\$1,000)."**

Page 3, delete lines 20 through 24.

Page 3, line 26, delete "ownership" and insert **"purchase"**.

Page 3, line 29, after "was" insert **"purchased by the taxpayer:**

**(1) at wholesale for the purpose of resale to another person;
or**

(2) in a retail transaction from another person who purchased the hybrid vehicle in a retail transaction."

Page 3, delete line 30.

Page 6, line 23, delete "a renewable" and insert **"an E85 base"**.

Page 6, line 25, delete "a renewable" and insert **"an E85 base"**.

Page 6, line 27, delete "renewable" and insert **"E85 base"**.

Page 6, line 28, delete "renewable" and insert **"E85 base"**.

Page 6, line 29, delete "a renewable" and insert **"an E85 base"**.

Page 6, line 34, after "taxpayer's" insert **"state"**.

Page 6, line 33, delete "A taxpayer that makes a qualified investment in Indiana is" and insert **"A taxpayer that makes a qualified investment in an E85 base fuel compatible fueling station in Indiana is entitled to a credit against the taxpayer's state tax liability in the taxable year in which the E85 base fuel compatible fueling station is placed in service for the dispensing of E85 base fuel, if the E85 base fuel compatible fueling station:**

(1) is placed in service in Indiana by the taxpayer for the dispensing of E85 base fuel before January 1, 2011; and

(2) has not previously been placed in service in Indiana by the taxpayer or any other person, corporation, or pass through entity for the dispensing of E85 base fuel.

(c) The amount of the credit for each E85 base fuel compatible fueling station placed in service by the taxpayer is equal to the lesser of:

(1) fifty percent (50%) of the amount of the taxpayer's qualified investment; or

(2) two thousand dollars (\$2,000)."

Page 6, delete lines 34 through 42.

Page 7, delete lines 1 through 2.

Page 7, line 11, strike "the" and insert **"a"**.

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Page 8, line 13, delete "qualified investment" and insert **"E85 base fuel compatible fueling station"**.

Page 8, line 18, delete "qualified investment" and insert **"E85 base fuel compatible fueling station"**.

Page 8, line 22, delete "qualified investment" and insert **"E85 base fuel compatible fueling station"**.

Page 8, line 26, delete "qualified investment" and insert **"E85 base fuel compatible fueling station"**.

Page 8, between lines 33 and 34, begin a new paragraph and insert:
"SECTION 15. IC 6-3.1-29-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 4.5. As used in this chapter, "fluidized bed combustion technology" means a technology that involves the combustion of fuel in connection with a bed of inert material, such as limestone or dolomite, which is held in a fluid like state by the means of air or other gasses being passed through the materials."

Page 9, line 16, delete "facility;" and insert **"facility or a fluidized bed combustion technology;"**.

Page 9, line 19, after "facility" insert **"or a fluidized bed combustion technology"**.

Page 9, line 20, delete "facility." and insert **"facility or fluidized bed combustion technology."**

Page 9, line 31, after "facility" insert **"or a fluidized bed combustion technology"**.

Page 10, line 3, after "15." insert **"(a)"**.

Page 10, line 4, after "entitled" insert **"for a qualified investment in an integrated coal gasification polygeneration facility"**.

Page 10, between lines 11 and 12, begin a new paragraph and insert:
"(b) Subject to section 16 of this chapter, the amount of the credit to which a taxpayer is entitled for a qualified investment in a fluidized bed combustion technology is equal to the sum of the following:

(1) Seven percent (7%) of the taxpayer's qualified investment for the first five hundred million dollars (\$500,000,000) invested.

(2) Three percent (3%) of the amount of the taxpayer's qualified investment that exceeds five hundred million dollars (\$500,000,000)."

Page 10, line 18, delete "facility." and insert **"facility or a fluidized bed combustion technology."**

Page 10, line 32, after "facility" insert **"or fluidized bed"**

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combustion technology".

Page 10, line 42, after "facility" insert **"or fluidized bed combustion technology".**

Page 11, line 17, after "is" insert **"an integrated coal gasification polygeneration facility".**

Page 11, line 26, delete "A" and insert **"For a project involving a qualified investment in a coal gasification polygeneration facility, a".**

Page 11, line 38, after "that" insert ":

(A) one hundred percent (100%) of the coal used:

(i) at the integrated coal gasification polygeneration facility, for a project involving a qualified investment in an integrated coal gasification polygeneration facility; or
(ii) as fuel in a fluidized bed combustion unit, in a project involving a qualified investment in a fluidized bed combustion technology;

must be Indiana coal, if the facility or unit is dedicated primarily to serving Indiana retail electric utility consumers; or

(B) seventy-five percent (75%) of the coal used:

(i) at the integrated coal gasification polygeneration facility, for a project involving a qualified investment in an integrated coal gasification polygeneration facility; or
(ii) as fuel in a fluidized bed combustion unit, in a project involving a qualified investment in a fluidized bed combustion technology;

must be Indiana coal, if the facility or unit is not dedicated primarily to serving Indiana retail electric utility consumers."

Page 11, line 38, strike "the taxpayer shall use Indiana coal at the".

Page 11, line 39, strike "taxpayer's integrated coal gasification".

Page 11, delete line 40.

Page 12, line 1, delete "will require," and insert "will require:

(A) the construction of the taxpayer's integrated coal gasification polygeneration facility, in the case of a project involving a qualified investment in an integrated coal gasification polygeneration facility; or

(B) the installation of the taxpayer's fluidized bed combustion unit, in the case of a project involving a qualified investment in a fluidized bed combustion technology."

Page 12, line 1, strike "the construction of the".

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Page 12, line 2, strike "taxpayer's integrated coal gasification".

Page 12, delete line 3.

Page 12, line 15, delete "facility." and insert "**facility or a fluidized bed combustion technology.**".

Page 12, line 31, after "facility" insert "**or a fluidized bed combustion technology.**".

Page 12, line 35, delete "facility;" and insert "**facility or fluidized bed combustion technology;**".

Page 12, line 38, delete "facility." and insert "**facility or fluidized bed combustion technology.**".

Page 18, between lines 15 and 16, begin a new paragraph and insert:

"(d) For purposes of this subsection, "vehicle" refers to a passenger motor vehicle or a truck. The owner of a vehicle described in subsection (a)(2) is entitled to a credit against the excise tax imposed under this chapter for the year in which the vehicle's internal combustion engine is converted to use E85 base fuel if the vehicle converted will:

(1) be used by the owner; and

(2) not resold;

during the year the vehicle's engine is converted. The amount of the credit is equal to the amount of the tax that would otherwise be imposed for the year in which the vehicle's engine is converted. If the owner of the vehicle pays the excise tax for the year in which the vehicle's engine is converted before the engine is converted, the owner is entitled to a refund of the excise tax paid upon application to the bureau."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1332 as introduced.)

LUTZ J, Chair

Committee Vote: yeas 8, nays 1.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1332, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 3.

Page 4, delete lines 1 through 20.

Page 4, line 36, delete "four".

Page 4, line 36, strike "million dollars".

Page 4, line 36, delete "\$4,000,000" and insert **"the following amounts"**.

Page 4, line 37, delete "." and insert ":".

Page 4, between lines 37 and 38, begin a new line block indented and insert:

"(1) One million dollars (\$1,000,000) in the case of a taxpayer who produces less than thirty million (30,000,000) gallons of biodiesel in a taxable year.

(2) Two million dollars (\$2,000,000) in the case of a taxpayer who produces at least thirty million (30,000,000) but less than sixty million (60,000,000) gallons of biodiesel in a taxable year.

(3) Three million dollars (\$3,000,000) in the case of a taxpayer who produces at least sixty million (60,000,000) gallons of biodiesel in a taxable year."

Page 4, strike lines 38 through 41.

Page 4, line 42, delete "twenty".

Page 4, line 42, strike "million dollars".

Page 4, line 42, delete "\$20,000,000)".

Page 4, line 42, strike "for all taxable".

Page 5, strike lines 1 through 2.

Page 5, line 18, delete "four".

Page 5, line 18, strike "million dollars".

Page 5, line 19, delete "\$4,000,000" and insert **"the following amounts"**.

Page 5, line 19, delete "." and insert ":".

Page 5, line 19, delete "However, the total amount of".

Page 5, delete lines 20 through 25, begin a new line block indented and insert:

"(1) One million dollars (\$1,000,000) in the case of a taxpayer who produces less than thirty million (30,000,000) gallons of blended biodiesel in a taxable year.

(2) Two million dollars (\$2,000,000) in the case of a taxpayer

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who produces at least thirty million (30,000,000) but less than sixty million (60,000,000) gallons of blended biodiesel in a taxable year.

(3) Three million dollars (\$3,000,000) in the case of a taxpayer who produces at least sixty million (60,000,000) gallons of blended biodiesel in a taxable year."

Page 5, delete lines 38 through 42, begin a new paragraph and insert:

"SECTION 4. IC 6-3.1-28-11, AS AMENDED BY P.L.191-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 11. ~~(a)~~ The total amount of credits allowed a taxpayer (or, if the person producing the ethanol is a pass through entity, the shareholders, partners, or members of the pass through entity) under this chapter may not exceed a total of ~~three million dollars (\$3,000,000)~~ **the following amounts** for all taxable years:

(1) Two million dollars (\$2,000,000) in the case of a taxpayer who produces at least forty million (40,000,000) but less than sixty million (60,000,000) gallons of ethanol in a taxable year.

(2) Three million dollars (\$3,000,000) in the case of a taxpayer who produces at least sixty million (60,000,000) gallons of ethanol in a taxable year.

~~(b) Notwithstanding subsection (a), the total amount of credits allowed a taxpayer (or if the person producing ethanol is a pass through entity, the shareholders, partners, or members of the pass through entity) may be increased to an amount not to exceed a total of five million dollars (\$5,000,000) for all taxable years with the prior approval of the Indiana economic development corporation."~~

Delete pages 6 through 20.

Page 21, delete lines 1 through 12.

Page 21, line 13, delete "(c)" and insert "SECTION 5. [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]".

Page 21, line 13, delete ", IC 6-3.1-28, and IC 6-3.1-29, all" and insert "**and IC 6-3.1-28, both**".

Page 21, delete lines 15 through 20.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1332 as printed January 20, 2006.)

ESPICH, Chair

Committee Vote: yeas 23, nays 0.

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